

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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REISHA SIMPSON,

Plaintiff,

-against-

POLICE OFFICER KENSON NELSON, SHIELD 12-CV-6577 (KBF)
#001838, 40 PCT.,

Defendant.

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JOINT PRETRIAL ORDER

The parties having conferred among themselves and with the Court pursuant to Federal Rule of Civil Procedure 16, the following statements, directions and agreements are adopted as the Pretrial Order herein:

I. FULL CAPTION OF THE CASE

Full caption is listed above.¹

II. NAMES AND ADDRESSES OF COUNSEL

¹ Defendant's pending *motion in limine* seeks to amend the caption to reflect Officer Nelson as the only remaining party.

For Plaintiff:

STEVEN H. GOLDMAN
190 E. 161 Street Bronx, New York 10451
(718) 538-5743 (w)
(914) 400-7427 (c)
attorneystevengoldman@gmail.com

KATHERINE E. SMITH
233 Broadway, Suite 1800
New York, New York 10279
Tel/Fax: (347)-470-3707

For Defendant:

Joshua J. Lax, Esq.
Amanda Shoffel, Esq.
NEW YORK CITY LAW DEPARTMENT
100 Church Street New York, New York
10007
Mr. Lax's Phone: (212) 356-3538
Ms. Shoffel's Phone: (212) 356-2249
Fax: (212) 356-3509

III. ANTICIPATED LENGTH OF TRIAL

Three to four days.

IV. JOINT STIPULATIONS

None.

V. DEPOSITION TESTIMONY

Defendant reserves the right to designate portions of the deposition of Omar Espinal when plaintiff provides the transcript of his deposition. Plaintiff failed to produce this transcript prior to the original trial date and has failed to provide it to defendants as of the time of this submission.

VI. TRIAL EXHIBITS

See attached excel spreadsheet.

VII. WITNESS LISTS

Plaintiff:

- 1) Reisha Simpson
 - a. In Person
 - b. Estimated Length of Direct Testimony = 2.5 hours
 - c. Cross: 2 hours

- 2) Phillip Roberts*²
 - a. In Person
 - b. Estimated Length of Direct Testimony = less than 1 hour
 - c. Cross: 1 hour
- 3) Hung Leong, MTA employee*
 - a. In Person
 - b. Estimated Length of Direct Testimony = less than 1 hour
 - c. Cross: half hour
- 4) Citibank employee*
 - a. In Person
 - b. Estimated Length of Direct Testimony = less than 1 hour
 - c. Cross: 15 minutes
- 5) Ronald A. Fedrizzi or Designee, Special & Superior Officers Benevolent Association*
 - a. In Person
 - b. Estimated Length of Direct Testimony = less than 1 hour
 - c. Cross: 14 minutes
- 6) Michael Haidas, Legal Aid Society Lawyer*
 - a. In Person
 - b. Estimated Length of Direct Testimony = 1 hour
 - c. Cross: 1 hour
- 7) Aaron King or Designee, SOS Security*
 - a. In Person
 - b. Estimated Length of Direct Testimony = less than 1 hour
 - c. Cross: 15 minutes

Defendant:

Defendant reserves the right to call any of plaintiff's witnesses in her case in chief. Defendant further intends to call the following witnesses in person:

Witness	Ds' Direct	P's Cross
Kenson Nelson	1.5 Hours	3-4 Hours
Omar Espinal	30 minutes	
Catherine McCann	15 Minutes	
Nat White	30 minutes	

² *Defendant previously raised objections in his *motions in limine* to the testimony of these witnesses.

VIII. MOTIONS IN LIMINE

The parties have previously filed all *motions in limine* with the Court, and incorporate them here by reference.

IX. JOINT REQUESTS TO CHARGE, VERDICT SHEET, AND VOIR DIRE

The charge, verdict form(s) and proposed *voir dire* will be submitted separately, including in Microsoft Word format.

Dated: October 9, 2015
 New York, New York

_____/s/_____
Steven H. Goldman
Katherine E. Smith

_____/s/_____
Joshua J. Lax
Amanda C. Shoffel

SO ORDERED:

HON. KATHERINE B. FORREST, U.S. DISTRICT JUDGE

Exhibit #	Exhibit Description	Basis & Legal Support for Objections	Response to Objections
PX1	MTA Records for Fare Card # 2181770733	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	MTA Witness Hung Leong/Business Record Exception to Hearsay FRE 803(6)(B)
PX2	Reisha Simpson's City Bank checking account activity records for Account #9954043133 from May 5, 2011 to June 2, 2011 (5	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Stipulation or Testimony of Resha Simpson/Business Record Exception to Hearsay FRE 803(A)/A Recorded Recollection of Resha Simpson FRE 803(5)(c)
PX3	Reisha Simpson's Written Journal Entry for 6/17/11 (11 pgs)	F.R.E. 401; F.R.E. 403; F.R.E. 801(d)(1)(B); F.R.E. 802; object to redactions if admissible	Testimony of Reisha Simpson/Present Sense Impression FRE 803(1)/Recorded Recollection FRE 803(5)(B)
PX4	Printed version of Reisha Simpson's Electronic Journal Entries 9/9/13 & 7/4/12 (7 pgs)	F.R.E. 401; F.R.E. 403; F.R.E. 801(d)(1)(B); F.R.E. 802; object to redactions if admissible	Testimony of Reisha Simpson/Present Sense Impression FRE 803(1)/Recorded Recollection FRE 803(5)(B)
PX5	Reisha Simpson's PBA Card (Front & Back)	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Stipulation or testimony of Union Witness and Reisha Simpson/Business Record FRE 803(6)(B)/Inherently Reliable Document FRE 807(1) & 807(2) & 807(3)
PX6	Letter Confirming Reisha Simpson's PBA Union Membership	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Stipulation or testimony of Union Official/ Business Record FRE 803(6)(B)
PX7	Supporting Deposition of PO Nelson	F.R.E. 401; F.R.E. 403 as cumulative	Testimony of PO Nelson/Prior Inconsistent Statement FRE 801(d)(1)
PX8	M. Haidas File Notes of Arraignment Interview with R. Simpson (3 pgs)	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Testimony of Michael Haidas/Past Recollection Recorded FRE 803(5)/Recent Fabrication 801(d)(1)(B)
PX9	Certificates of Completion for Reisha Simpson dated 2/5/05	F.R.E. 401; F.R.E. 403; F.R.E. 802;	Testimony of Reisha Simpson/Recorded Recollection FRE 803(5)/Business Record 803(6)
PX10	Photo of Security Guard ID for Reisha Simpson	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Testimony of Reisha Simpson/Recorded Recollection FRE 803(5)/Business Record 803(6)
PX11	Certificate of Achievement for Reisha Simpson dated 10/12/10	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Testimony of Reisha Simpson/Recorded Recollection FRE 803(5)/Business Record 803(6)
PX12	Certificate of Disposition of underlying criminal charges for Reisha Simpson	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Testimony of Reisha Simpson/Public Record FRE 803(8)/Business Record FRE 803(6)/Evidence of Material Fact FRE 807(2)
PX13	Criminal Court Complaint (2 pgs)	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Testimony of Reisha Simpson/Public Record FRE 803(8)/Evidence of Material Fact FRE 807(2)
PX14	Six Photos of the scene of the arrest (6 pgs)	Defendants have not seen this exhibit and object to its admissibility as a violation of F.R.E. 264	Testimony of Reisha Simpson and general relevance under FRE 401.

PX15	Arrest Report by PO Nelson (3 pgs)	F.R.E. 401; F.R.E. 403;	Prior statements of PO Nelson/Declarant-Witness's Prior Statement FRE 801(d)(1)/Recorded Recollection FRE 803(5)
PX16	Memo Book entry of PO Nelson (4 pgs)	F.R.E. 401; F.R.E. 403;	Prior statements of PO Nelson/Declarant-Witness's Prior Statement FRE 801(d)(1)/Recorded Recollection FRE 803(5)
PX17	Letter from SOS Security Confirming R. Simpson's Employment & Job Title	F.R.E. 401; F.R.E. 403; F.R.E. 802; F.R.E. 901; F.R.E. 602;	Stipulation or testimony of SOS Security Employee/ Business Record FRE 803(6)(B)
DX1	Memo Book Entry by PO Nelson	No objection	Testimony of Defendant Officer Nelson/Present Sense Impression FRE 803(1)/Recorded Recollection FRE 803(5)(B)/Business Record FRE 803(6)(B)
DX2	Affidavit of Catherine McCann	F.R.E. 401 and F.R.E. 403	Business Record FRE 803(6)(B)
DX3	Repair Records from Metropolitan Transportation Authority (MTA)	F.R.E. 401 and F.R.E. 403	Business Record FRE 803(6)(B)
*Defendant reserves the right to use any of Plaintiff's exhibits			